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KNOBBE MARTENS OLSON & BEAR LLP			LE, KHANH H	
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IRVINE, CA 92614			2875	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/715,096	Applicant(s) MA, OLIVER JOEN-AN	
	Examiner Khanh H. Le	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15, 17, 24 and 35-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 17, 24 and 35-60 is/are rejected.
- 7) ☒ Claim(s) 10 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 10 and 11 are objected to because of the following informalities:
indefinite claim due to the use of "and/or". Appropriate correction is required.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
2. Claims 24, 40-41, and 47 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Phyle's (US Patent No. 5,584,564).
3. With respect to claim 24, Phyle's lighting apparatus is suitable for fastening to a pole-like object and having two base parts and light source. The first base part and the second base part being divided so that each has an inner sidewall surface facing each other and forming a through hole to substantially encircle a pole-like object when the two base parts are connected (fig. 5-8).
4. With respect to claim 40, Phyle's lighting apparatus further has a hinge (fig. 7, item 38) that coupling the two base parts together (col. 3, line 32-37).

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5. With respect to claim 41, Phyle's lighting apparatus further has a latch (fig.7, item 40) that to connect the two base parts together (col. 3, 37-39).
6. With respect to claim 47, Phyle's lighting apparatus has a hinge and a latch (fig. 7, item 38 and 40). The two base parts of the lighting apparatus are held together by a hinge and a latch is coupled the two base parts together

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

Determining the scope and contents of the prior art.
Ascertaining the differences between the prior art and the claims at issue.
Resolving the level of ordinary skill in the pertinent art.
Considering objective evidence present in the application indicating obviousness or nonobviousness.
9. Claims 1-12, 14, 15, 17, 44, 45, and 48-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phyle in view of Green et al. (US Patent No. 6,013,985).
10. With respect to claim 1, Phyle discloses a battery operated lighting apparatus (fig. 1, item 10) for an umbrella pole having a body (fig. 6, item 30) releasable and attachable to the umbrella pole, the source or the sources of light is to

direct the light away from the body (fig. 1). Phyle does not teach a source or sources of light is carried by the body and Phyle does not teach the incident light responsive means on the body to provide electrical energization for the light source is carried by the body. Green teaches using an incident light responsive means (photovoltaic cells) (col. 3 line 45-47) to provide electrical energization for the light source. Green also teaches the light provider can be sealed (col. 1 line 30-32) by having the incident light responsive means and source or sources of electric light carried by the body of the light provider. Having a sealed lighting assembly would be an excellent feature for Phyle's light provider for an umbrella to have since it will be exposed to the weather elements. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to have the incident light responsive, the source or sources of light carried by the body like the lighting assembly of Green for the lighting apparatus for an umbrella of Phyle so that the lighting apparatus for an umbrella can be more reliable when exposed to the weather elements.

11. With respect to claim 2, Phyle's lighting apparatus has a body, which includes multiple sections that become interconnected (fig. 6-8) when the body is attached to the umbrella pole.

12. With respect to claim 3, Phyle's lighting apparatus has at least two sections hinged interconnection whereby said sections are clampingly connectable to the umbrella pole (fig.7, item 38 and item 40).

13. With respect to claim 4, Phyle's lighting apparatus body has upper and lower sides, but lacks an incident light responsive means facing away from one of the sides, and source of electric light to face away from the other of the sides. Green's light assembly has the incident light responsive means to face away from one of said side and the source of electric light to face adjacently away from the other of said sides (fig. 1). It would have been obvious to one having ordinary skill in the art at the time of the invention was made to take Phyle's lighting apparatus made with Green's incident light responsive and the source of electric light to face away from each other so Phyle's lighting apparatus can be mounted above head position such as on the umbrella pole.
14. With respect to claim 5, Phyle's lighting apparatus uses disposable batteries. Green teaches using an array of solar cells (photovoltaic cells) (col. 3, line 45-46) to supply power to the LED's (fig. 1, item 22 and col. 2, line 32-33), the lighting apparatus can be sealed thus the lighting apparatus does not required servicing or replacing the disposable batteries. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to have Phyle's lighting apparatus made with Green's solar cells to supply power to the LED's so the Phyle's lighting apparatus can be sealed and protected from weather. Further, the use of solar cell provides a renewal energy source, thereby obviating the need to replace batteries.
15. With respect to claim 6, Phyle's lighting apparatus does not have a generally convex shaped body. The Green's lighting apparatus has one side, which is

convex in one direction away from the body, and said other side is generally convex in an opposite direction away from the body. The convex shaped body helps to direct the light to and away from the lighting apparatus. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to have Phyle's lighting apparatus made with the convex shaped body of Green's so that Phyle's lighting apparatus could receive ambient light and radiate generated light better.

16. With respect to claim 7, Phyle's lighting apparatus body also has a through opening to receive the umbrella pole (fig. 9).

17. With respect to claim 8, Phyle's lighting apparatus has the through opening to receive the umbrella pole, however it is not adjustable. Phyle's lighting apparatus design to be supported by the stop member (fig. 9, item 48) or by the slider (fig. 10, item 26) of the umbrella (col. 3, line 61-67). Therefore, Phyle's lighting apparatus can be installed in many different sizes of umbrella poles.

18. With respect to claim 9, Phyle's lighting apparatus has a through opening to receive the umbrella pole, and the lighting are mounted on the umbrella support ribs which are spaced evenly about the central opening of the body (fig. 1-4). Phyle's lighting apparatus uses disposable battery. Phyle's lighting apparatus does not have solar cells and the LED's mounted on the body. Green's teaches using solar cells to charge the rechargeable batteries and in turn, the batteries supply the electrical energy to power the LED's thus the

lighting apparatus can be sealed so that it can be exposed to the harsh environment. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to use the solar cells and LED's of the lighting apparatus of Green and spacing them about the central opening of Phyle so that light can be generated evenly about the apparatus causing a pleasing effect from the umbrella.

19. With respect to claim 10 and 11, Phyle's lighting apparatus does not have a means to control the intensity of the light. Green teaches to include a means to control the intensity of the light emission from the light source (col. 1, line 47-49). It would have been obvious to one having ordinary skill in the art at the time of the invention was made to add a means to control the intensity of the light as shown in Green for the lighting apparatus of Phyle so that light intensity can be controlled and more pleasing effect can be had.

20. With respect to claim 12, Phyle's lighting apparatus includes grippers (friction between support pole and top and bottom surfaces of the housing) (col. 4, line 4-7).

21. With respect to claim 14, Phyle's lighting apparatus has latch elements (fig. 7, item 40) carried by the body sections to latch together when the sections are closed about an umbrella pole.

22. With respect to claim 15, Phyle's lighting apparatus has a latch release (fig 7, item 40) on at least one part of the sections.

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23. With respect to claim 17, Phyle discloses a battery operated lighting

apparatus for an umbrella pole having a body attachable to the pole, a source or sources of light is directing the light away from the body, a through opening is carried by the body to receive the assembly stand (fig. 1). Phyle does not teach the source or sources of electric light is carried by the body. Green teaches the body of the light provider carries a source or sources of electric light and the light provider can be sealed. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to have a source or sources of light to be enclosed in the body of the lighting apparatus as taught by Green for the umbrella lighting apparatus of Phyle so that the lighting apparatus for can be sealed against the weather.

24. With respect to claim 44, Phyle's lighting apparatus is not powered by solar, and does not have rechargeable batteries. Green's lighting apparatus is solar powered and has rechargeable batteries, therefor the unit also has a solar powered charging unit (col. 4, line 23). By doing this, user does not have to regularly replace the expensive disposable batteries. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to make the lighting apparatus that have solar cells and rechargeable batteries and a solar charging unit of Green in the lighting assembly of Phyle so user does not have to regularly replace the expensive disposable batteries.

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25. With respect to claim 45, Phyle lighting apparatus is not solar powered.

Green's teaches a solar powered lighting apparatus having a solar panel (fig. 2), some wires (the circuitry, fig. 3), and a solar-charging circuit wherein each solar cell is electrically connected in series or parallel to the solar-charging circuit in the base part by the wires (col.3 line 45) will product a sealed and maintain free lighting apparatus. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to have a solar panel and a charging circuit of Green's in the lighting apparatus of Phyle's so that Phyle lighting apparatus can be sealed and maintain free.

26. With respect to claim 48-51 and 53- 55, Phyle's lighting apparatus is not solar power and is not using LED lamp. Green's lighting apparatus is solar powered. It has LED lamps (fig. 1, item 22), solar panel (item 18), rechargeable batteries (item 26) configured to recharge by the solar panel and provide power to the LEDs. All of these components when put together will provide a maintaining free lighting system and does not cost any money to operate. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to make the lighting apparatus that have solar cells, LEDs, rechargeable batteries and a solar charging unit of Green in the lighting assembly of Phyle so user can have a maintaining free lighting apparatus and does not cost any money to operate.

27. With respect to claim 52 and 56, Phyle's lighting apparatus uses disposable batteries. Green's teaches to use a solar panel to recharge the rechargeable

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batteries but Greens did not teaches to a use a corded charging unit to recharge the rechargeable batteries. However, a corded charging unit is not novel. A corded charging unit has been used in countless types of devices that contain rechargeable battery for economical reasons. Devices such as a rechargeable flash light, a rechargeable electric lantern, a cordless shaver, or a cellular phone, etc. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to use rechargeable batteries and add a corded rechargeable unit to the lighting apparatus of Phyle so that it is more economical to operate.

28. Claims 35-39, and 46 and are rejected under 35 U.S.C. 103(a) as being unpatentable over Phyle in view of Broeke (US Patent No. 5,584,564).

29. With respect to claim 35-39, Phyle's lighting apparatus uses a latch to couple the housing to the umbrella pole and the housing is support by members of the umbrella. Broeke teaches to use a clamp (fig. 2, item 13-16 and 40, 41, col. 3, line 23-25), resilient members (elastic coating layers, col. 3, line 22), and engagement surfaces that had serrated edge (fig.2, item 25), to couple the lighting device to the umbrella pole. All of these components are built in to the lighting assembly to make sure that the lighting apparatus is securely mounted to the umbrella pole without the aid of any additional external component. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to add a clamp, resilient members, and engagement surfaces that has serrated edge of Broeke to the lighting

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apparatus of Phyle so that the lighting apparatus can be mounted on the umbrella pole without the aid of the umbrella members.

30. With respect to claim 46, Phyle's lighting apparatus base part is not circular shaped because it does not contain the lighting, it only contain the batteries. Broeke's lighting apparatus base part is a self contains lighting apparatus. Broeke's lighting apparatus has a generally circular, disk shape and further comprising a symmetrically divided first base part and a second base part. Each having a semi-circularly curved inner sidewall surface facing that of the other in which a circular through hole is formed to substantially encircle a pole-like object when the two base parts are locked together (fig.3). A clamp used to lock the two base parts together (a coupling pin). It would have been obvious to one having ordinary skill in the art at the time of the invention was made to use Broeke's lighting apparatus base part in Phyle's lighting apparatus so that Phyle's lighting apparatus is a self contains lighting apparatus.

31. Claim 13, 57-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phyle and Green as applied to claim 1-12 and 17 above, and further in view of Broeke (US Patent No. 4,787,019).

32. With respect to claim 13, Phyle's method of mounting the lighting apparatus to the umbrella pole does not teach the use of springs and grippers to hold the lighting apparatus in place. Broeke teaches to ensure good friction coupling with the pole, an elastic coating layers (springs) should be used (col.

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2, line 65-69). It would have been obvious to one having ordinary skill in the art at the time of the invention was made to use elastic coating layers of Broeke for the lighting apparatus of Phyle to ensure good friction coupling with the pole by urging at least one gripper relatively toward another gripper.

33. With respect to claim 57, Phyle's lighting apparatus opening is not adjustable to receive different size of poles. Broeke teaches different methods of making the adjustable opening therefore the lighting apparatus can receive poles of different sizes (fig. 2 and 3). It would have been obvious to one having ordinary skill in the art at the time of the invention was made to make the opening of the lighting apparatus adjustable like the lighting apparatus of Broeke in the lighting apparatus of Phyle so that Phyle lighting apparatus can receive different size of poles.

34. With respect to claim 58, Phyle's lighting apparatus opening does not have grippers mounted on the body opening. Broeke teaches using grippers (fig. 2, item 25-28) at the body opening will provide more friction to coupling the lighting apparatus and the pole (col. 2, line 65-68). It would have been obvious to one having ordinary skill in the art at the time of the invention was made to add Broeke's grippers to the opening of Phyle's lighting apparatus of so that Phyle lighting apparatus can have better grip to the pole.

35. With respect to claim 59, Phyle's lighting apparatus does not use grippers to secure the housing to the umbrella pole. Broeke teaches to use springs and grippers (elastic coating, col. 2, line 65-69), the lighting apparatus can have a

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better grip to the umbrella pole. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to use springs and grippers of Broeke's in Phyle's lighting apparatus so that Phyle lighting apparatus can have better grip to the umbrella pole.

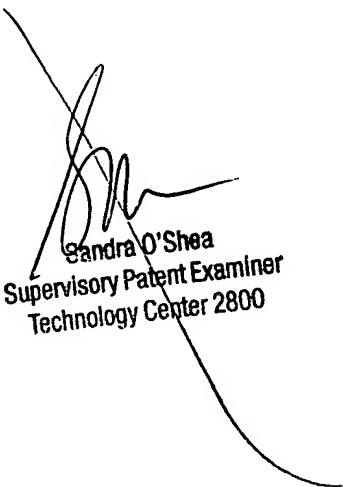
36. With respect to claim 60, Phyle's lighting apparatus does not have any gripper so it does not required to have any means to adjust the gripper. Broeke's teaches to include means for adjusting the grippers (col. 1, line 38-41), the lighting apparatus can be securely attached to the umbrella assembly. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to includes a means for adjusting the grippers as Broeke's lighting apparatus in Phyle so that Phyle lighting apparatus can be securely attached to the umbrella assembly.

37. Claim 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phyle and Broeke as applied to 35 above, and further in view of Chern (US Patent No. 4,953,839).

38. With respect to claim 42 and 43, Phyle's lighting apparatus does not have a sliding block, a plurality of threaded pillar parts, a transmission with drive gear, or a crank handle. Chern teaches to combine a crank handle (fig. 4, item 56), two threaded pillar parts (item 52) that connected to a slider block (41), a gears that coupled with the crank handle (item 55), and also mesh with a pair of driven gears (item 51) to form a transmission configuration. This art is well known and has been applied to many different inventions to couple or

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securely hold an object or an item quickly and effortlessly. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to include a crank handle, two threaded pillar parts, a slider block, three gears that are meshing with each other as of Chern in Phyle lighting apparatus so that Phyle's lighting apparatus can be securely to mounted to an umbrella pole quickly and effortlessly.



Sandra O'Shea
Supervisory Patent Examiner
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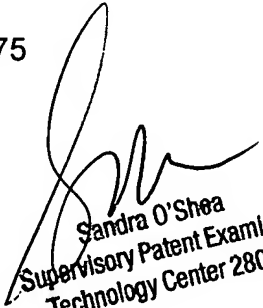
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh H. Le whose telephone number is (571) 272-8325. The examiner can normally be reached on Monday - Friday; 8:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Khanh H Le
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